

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

**CONOCOPHILLIPS COMPANY
MULTI-PARISH**

**AI NOs. 105820
 2538, 7867, 8372
 112772**

**PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.**

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ENFORCEMENT TRACKING NOS.

AE-CN-03-0060

AE-CN-03-0178

AE-PP-03-0245

SETTLEMENT

The following Settlement is hereby agreed to between ConocoPhillips Company (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a corporation who owns and/or operates the Lake Charles Refinery (AI No. 2538), the PPG Compressor Station (AI No. 7867), the Clifton Marine Terminal (AI No. 8372), and multiple oil and gas facilities located throughout the State of Louisiana, including those listed in Table 1 of this Agreement.

II

On April 29, 2003, the Department issued a Consolidated Compliance Order & Notice of Potential Penalty (CCO/NOPP), Enforcement Tracking No. AE-CN-03-0060, which was based upon the following findings of fact:

The Respondent failed to obtain approval from the permitting authority prior to the construction, modification, or operation of each facility listed in Table 1 which ultimately resulted in an initiation or increase in emissions of air contaminants. Each failure to obtain prior approval from the permitting authority for the construction, modification, and/or operation of the facility is a violation of LAC 33:III.501.C.2 and Sections 2057(A)(1) and 2057(A)(2) of the Act.

Table 1	
Facility Name	Facility Name
Albright Estate 18 No. 3 Alt Production Facility	Ouzts A No. 7 & 7D Tank Battery
Anna Walker No. 1 Lease	Placid Fee 14-1 Lease
Baker Land Co. 34 No. 4	Plaster 16 No. 1 Alt Facility
Baker Land Co. No.3 Alt Production Facility	Plaster 16 No. 2
Barker 19 No. 1 & 1D Facility	Premier Foundation 8 No. 2
Bates C SWD No. 2 Tank Battery	Salter 26 No. 2
Colbert B15 No. 1	Simmons 21 No. 2 Alt Facility
Copeland C. No. 3 Lease	Stewart 20 No. 1 Alt Facility
Davis R No. 8 lease	Still No. 1 & SL 14713 No. 1 Production Facility
Davis S No. 11 Lease	Streetman B No. 1 Alt Facility
Doris Butler No. 1 Lease	Sutton 21 No.1/Franks No. 2 Alt
Ewing 11 No. 1 Lease	Sutton 21 No. 2
Hamner 1 No. 2 Lease	Sutton 8 No. 2 Alt
Hamner No. 1 Lease	Sutton A No. 3 Lease Facility
Irvin Glycol Dehydration Facility	Sutton A No. 4 Lease Facility
Irvin No. 1 Lease	Sutton A No. 5 Alt Facility
Kiper No. 1 Production Facility	W.J. Smith 26 No. 3
Louisiana Minerals 16-1 Facility	Walker K No. 5 Lease
Louisiana Minerals 8-1 Facility	Walker R No. 1 Facility
Louisiana Minerals LTD 10-1 Lease	Willamette 11 No. 1 Facility
Louisiana Minerals LTD 5 No. 5 Tank Battery	Willamette B17 No. 1
Louisiana Minerals No. 5-3 Lease	Willamette No. 2 Lease
Louisiana Minerals No. 9-2 Lease	Woodard C No. 3 Tank Battery
Mason 25 No. 1 Facility	Woodard Walker B16 No. 1
Merritt D-3	Woodard Walker Q23 No. 1 Lease
Moon et al. 32-1A Production Facility	Woodard Walker A No. 1 Lease
Ouzts A No. 5 Lease	

III

On March 23, 2004, the Department issued a Consolidated Compliance Order & Notice of Potential Penalty (CCO/NOPP), Enforcement Tracking No. AE-CN-03-0178, which was based upon the following findings of fact:

On or about June 28, 2002, and January 18-19, 2003, inspections of the Lake Charles Refinery (AI No. 2538), and a subsequent file review conducted on February 11, 2004, were performed to determine the degree of compliance with the Act and Air Quality Regulations.

The following violations were noted during the courses of the inspections and file review:

- A. On or about June 27, 2002, the Respondent's South Flare (Emission Point No. 31) was extinguished for approximately nine hours, resulting in the release of certain regulated air pollutants, including, but not limited to, hydrogen sulfide (H₂S), benzene, and other hydrocarbons. The Respondent's failure to operate the flare at all times when emissions may be vented and failure to operate the flare with a flame present at all times is a violation of 40 CFR 63.11(b)(3) and (5), which language has been adopted as a Louisiana regulation in LAC 33:III.5122, Part 70 Specific Condition No. 1 of Air Quality Permit No. 2625-V0, the State Only Specific Condition of Air Quality Permit No. 2625-V0, LAC 33:III.501.C.4 and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- B. On or about January 18 – 19, 2003, the Respondent's facility experienced a release caused by the loss of electrical power to a substation that provided electricity to the refinery's sulfur recovery unit and amine treating system. This event resulted in the release of certain regulated pollutants, including, but not limited to, sulfur dioxide (SO₂), in excess of standards of ambient air quality. This is a violation of 40 CFR 60.11(d), which language has been adopted as a Louisiana regulation in LAC 33:III.3003, LAC 33:III.905, LAC 33:III.929.A and Sections 2057(A)(1) and 2057(A)(2) of the Act. This event also resulted in the release of SO₂ in excess of applicable emission standards for petroleum refineries. This is a violation of 40 CFR 60.104, which language has been adopted as a Louisiana regulation in LAC 33:III.3003, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

- C. During the event on or about January 18 – 19, 2003, the Respondent failed to continuously monitor and record the concentration of Hydrogen Sulfide (H₂S) in fuel gases in violation of 40 CFR 60.105(a)(4), which language has been adopted as a Louisiana regulation in LAC 33.III.3003, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

IV

The Respondent owns and/or operates the PPG Compressor Station (AI No. 7867) located at 3281 Pete Manena Road in Westlake, Calcasieu Parish, Louisiana. The facility operates under Title V Air Permit No. 0520-00118-V0 issued on August 19, 1996. The Department issued an administrative amendment to Title V Air Permit No. 0520-00118-V0 on October 27, 1997. The Department received an application for the renewal of Title V Air Permit No. 0520-00118-V0 on February 19, 2001.

V

On or about March 25, 2003, a compliance inspection of the Respondent's PPG Compressor Station (AI No. 7867) was performed to determine the degree of compliance with the Act and Air Quality Regulations.

The following violation was noted during the course of the inspection:

As stated in the 2001 Criteria Pollutant Emissions Certification Statement submitted to the Department on or about March 27, 2002, and the 2002 Criteria Pollutant Emissions Certification Statement submitted to the Department on or about March 28, 2003, the facility emitted eight tons of volatile organic compound (VOC) emissions during the period January 1, 2001, through December 31, 2001, and thirteen tons of VOC emissions during the period January 1, 2002, through December 31, 2002. These emissions exceeded the facility's annual permitted emission limit of 5.6 tons per year for VOC emissions as specified in General Permit Briefing Sheet Page 2 of Title V Air Permit No. 0520-0018-V0. The Respondent's failure to operate the facility in accordance with the terms and conditions

of Title V Air Permit No. 0520-0018-V0 is a violation of LAC 33:III.501.C.4 and Sections 2057(A)(1) and 2057(A)(2) of the Act.

VI

The Respondent owns and/or operates the Clifton Marine Terminal (AI No. 8372) located at 2115 Davison Road in Sulphur, Calcasieu Parish, Louisiana. The facility operates under Title V Air Permit No. 0520-00088-V0 issued on July 28, 1999. The Department issued an administrative amendment to Title V Air Permit No. 0520-00088-V0 on April 12, 2000.

VII

On or about July 24, 2003, a compliance inspection of the Respondent's Clifton Marine Terminal (AI No. 8372) was performed to determine the degree of compliance with the Act and Air Quality Regulations.

The following violations were noted during the course of the inspection:

- A. A visible gap around the slotted guide pole was observed on Tank 37 (Emission Point 94-37). The Respondent's failure to ensure that each opening in the roof is equipped with a gasketed cover, seal, or lid that is maintained in a closed position at all times (i.e., no visible gaps) is a violation of 40 CFR 60.112b(a)(2)(ii) which language has been adopted as a Louisiana regulation in LAC 33:III.3003, Part 70 Specific Condition No. 3 of Title V Air Permit No. 0520-00088-V0, LAC 33:III.501.C.4, and Section 2057(A)(2). As stated in the Respondent's correspondence dated August 1, 2003, repair parts were immediately ordered and the guide pole seal would be replaced by August 31, 2003.
- B. A sump gauge hatch on Tank 26 (Emission Point 94-26) was open to the atmosphere. The Respondent's failure to ensure that the cover was maintained in a closed position at all times except when the device is in actual use is a violation of 40 CFR 60.112a(a)(1)(iii) which language has been adopted as a Louisiana regulation in LAC 33:III.3003, Part 70 Specific Condition No. 2 of Title V Air Permit No. 0520-00088-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act. As stated in the

Respondent's correspondence dated August 1, 2003, the sump hatch was inadvertently left open and was immediately secured during the inspection.

- C. A visible sheen was observed discharging from the roof drain piping on Tank 37 (Emission Point 94-37). The Respondent's failure to avoid and clean up the oil sheen to reduce or eliminate the emission of volatile organic compounds is a violation of LAC 33:III.2113 and Section 2057(A)(2) of the Act. As stated in the Respondent's correspondence dated August 1, 2003, the oil sheen was removed with adsorbent pads.

VIII

In response to the CCO/NOPPs described in Paragraphs II and III above, Respondent made timely requests for administrative hearings.

IX

While conducting a retroactive review required by Section II of CCO/NOPP, Enforcement Tracking No. AE-CN-03-0060, the Respondent discovered five additional facilities which are currently "unpermitted" as described in Section II. These facilities are: Baker O Alt Tank Battery, Cole A No.2 Alt Tank Battery, Doris Butler 30 No. 3 Tank Battery, Hassell 32 No. 2 Tank Battery, and J.B. Smith Heirs D35-1 Tank Battery. Respondent has made applications for permits, or has received permits, for all of these facilities.

X

None of the facilities referenced in Paragraph II, above, are or ever were "major stationary sources" of air contaminants. None of these facilities were required to install additional pollution control devices or limit operations as a result of subsequent permit issuance.

XI

On October 14, 2003, the Department issued Notice of Potential Penalty, Enforcement Tracking Number AE-PP-03-0245, which was based upon the following finding of fact:

On or about August 11, 2003, a file review of Franks, et al. No. 3-Alt Tank Battery, owned and/or operated by Respondent, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The facility is located approximately three (3) miles northeast of Sailes, Bienville Parish, Louisiana.

While the Louisiana Department of Environmental Quality's (the Department) investigation is not yet complete, the following violation was noted during the course of the file review:

The Respondent failed to obtain approval from the permitting authority prior to the construction of the facility in December 2002. Air Permit No. 0360-00454-00 was issued to the facility on August 12, 2003. The construction, modification, or operation of a facility which may ultimately result in an initiation or increase in emission of air contaminants prior to approval from the permitting authority is a violation of LAC 33:III.501.C.2 and Sections 2057(A)(1) and 2057(A)(2) of the Act.

XII

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

XIII

Nonetheless, Respondent, without making any admission of liability under state or federal

statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of Seventy Five Thousand Dollars (\$75,000.00), of which \$1,000.00 represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

XIV

Respondent further agrees that the Department may consider the inspection report(s), the above-referenced CCO/NOPPs, and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

XV

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such

review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

XVI

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

XVII

The Respondent has caused a public notice advertisement to be placed in the official journal or newspaper of the parish governing authority in Bienville, Calcasieu, and Webster Parishes. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

XVIII

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Financial Services

Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana,
70821-4303.

XIX

In consideration of the above, any claims for penalties for any matters alleged in the CCO/NOPPs, or which could have been alleged related to air permitting violations at facilities owned or operated by the Respondent, are hereby compromised and settled in accordance with the terms of this Settlement.

XX

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

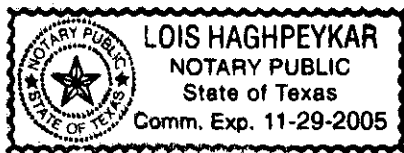
CONOCOPHILLIPS COMPANY

BY: [Signature]
(Signature)

David D. Duncan
(Printed)

TITLE: Counsel

THUS DONE AND SIGNED in duplicate original before me this 8TH day of
SEPTEMBER, 2004, at HOUSTON, TX.



[Signature]
NOTARY PUBLIC (ID# _____)

LOIS HAGHEYKAR
(Printed or Typed)

STATE OF LOUISIANA
Mike D. McDaniel, PhD., Secretary
Department of Environmental Quality

BY: [Signature]
Harold Leggett, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 27th day of
September, 2004, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 20456)

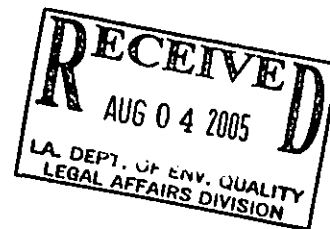
Ted R. Bayle, II
(Printed or Typed)

Approved: [Signature]
Harold Leggett, Assistant Secretary



CHARLES C. FOTI, JR.
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005



July 21, 2005

Mr. Ted R. Broyles, II
La. Department of Environmental Quality
Legal Affairs Division
P.O. Box 4302
Baton Rouge, LA 70821-4302

Re: AG Review of DEQ Settlement;
ConocoPhillips Company
AE-CN-03-0060; AE-CN-03-0178; and AE-PP-03-0245
AI#s 105820; 2538; 7867; 8372; and 112772

Dear Mr. Broyles:

Pursuant to the authority granted to me by Art. IV, Sec. 8 of the state constitution and R.S. 30:2050.7(E)(2)(a), I approve the above referenced settlement.

Sincerely,

By: 
CHARLES C. FOTI, JR.
Attorney General

CCF/mlc